



STATE OF WASHINGTON
OIL SPILL ADVISORY COUNCIL

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Lopez Islander Marina Resort
Fisherman Bay Road
P.O. Box 459
Lopez, WA 98261

May 18th, 2006

Members Present: Chairman Mike Cooper, Phil Bannan, Peter Becker (Alternate), Maura Brueger, Mike Doherty, Stuart Downer, Fred Felleman (Alternate), Kathy Fletcher, Nick Jones, Gerald Joyce, Ian Miller (Alternate), Michael Moore, Kevin Ranker, Lee Roussel, John Schumacher, Jeff Shaw, Greg Whittaker, Phil Winberry

Members Absent: Brett Bishop, Jim Davis, Harlan James, David Sones

Staff Present: Jacqui Brown Miller, Dorine Coleman

Chairman Cooper called the meeting to order at 11:00 a.m.

Miscellaneous Items

Nick Jones (Jones) welcomed the Council to Lopez Island, where citizens are deeply vested in the generosity of Washington's waters, and mentioned that derelict vessels, shoreline development, and increasing recreational boat traffic present a substantial threat to Washington waters. San Juan County Councilman Bob Myer (Myer) also welcomed the Council to Lopez.

Chairman Cooper welcomed Dorine Coleman (Coleman) to the Oil Spill Advisory Council. Coleman is the Council's new Administrative Assistant.

The Council approved the March 16-17, 2006 draft minutes, as corrected.

Chairman Cooper updated the Council on the likely relocation of Council staff to another office building. He stated that the Council budget will be tracked monthly, and in order to make budget cuts, proposed that the Council enact a policy where half-day meetings of four hours are reimbursed at a rate of 50 dollars. After some discussion, there was consensus among Council Members that per diem reimbursements rates will not be changed at this time.

1 There was a brief discussion about consensus and meeting ground rules, followed by a
2 team-building exercise.

3 4 **Federal Funding TAC Report**

5 Chairman Cooper mentioned that he was impressed with the quality of reports from the
6 Council's Technical Advisory Committees (TAC), and stated that there was a need for the
7 Council to take action on the various reports as they will be compiled into a draft and made
8 available for public comment. He also proposed having a half-day work session in June in
9 Olympia, and inviting various stakeholders panels to provide input for the Council's final report.

10 Phil Winberry (Winberry) delivered a report to the Council of the work accomplished by
11 the Federal Funding TAC. Winberry mentioned that the committee outlined a scope of work that
12 will examine whether federal spill activities are being performed or not, whether or not they are
13 funded, and will identify where spill prevention gaps exist. They will determine if additional
14 action is needed but not already being performed by any governmental organization. The
15 Federal Funding TAC is also examining if there is anything that the Committee can do to
16 truncate the process, however, Winberry mentioned that the available literature does not provide
17 the critical analysis needed to make such a determination, and that additional research by the
18 Council consultant will be needed. An issue the full Council needs to address is funding, as
19 there are no existing funds in the current Council budget for an additional study. Maura Brueger
20 (Brueger) stated that the TAC will also determine the prevention activities on which it will focus,
21 taking into consideration a long list of federal responsibilities.

22 There was discussion about the involvement of other agencies, e.g., the Department of
23 Ecology (DOE) and the United States Coast Guard (USCG), in assisting this TAC with its scope
24 of work to alleviate the need for additional funding.

25 Winberry emphasized the need to have all available information compiled into a report to
26 present to the full Council for its independent analysis of oil spill prevention programs.

27 There was consensus by the Council that the Federal Funding Technical Advisory
28 Committee will draft language related to its scope of work that will be included in the draft
29 report, and that staff would make some editorial changes.

30 31 **Capacity TAC Report**

32 Captain Michael Moore (Moore) delivered a report to the Council of the work
33 accomplished by the Capacity TAC, and stated that this committee encountered a similar
34 problem to the Federal Funding TAC, in that they discussed issues related to capacity without
35 knowing how much can be spent. The TAC determined that capacity is equipment and
36 capability over time. In its scope of work, the TAC will consider the existing inventory of oil
37 spill response equipment that exists for different regions, major equipment types, and their
38 respective locations to determine the time needed to cascade the equipment into different
39 response areas. These factors taken collectively and applied to different regions will give the
40 Council a better understanding of the State's capacity to deal with oil spills in Washington's
41 waterways. Moore stated that the TAC focused mainly on response and recovery efforts.

42 Gerald Joyce (Joyce) stated that the Council will need to determine what constitutes a
43 "catastrophic" oil spill, and mentioned that the scope of work outlined in the TAC's memo to the
44 Council will allow the TAC to determine the state's capacity to deal with these issues, which at
45 present, is unknown. Joyce also mentioned that the TAC will be tasking the DOE to perform a
46 review of Washington's Geographic Response Plans (GRPs).

1 There was discussion about how weather conditions and different equipment types will
2 affect capacity. Kathy Fletcher (Fletcher) stated that it would be useful to consider what factors
3 might limit the effectiveness of capacity. Moore stated that the TAC established a framework
4 during the TAC meetings to approach knowing more about capacity, and that a comparative
5 analysis is needed.

6 7 **Derelict Vessel TAC Report**

8 Jones delivered a report to the Council of the work accomplished by the Derelict Vessels
9 TAC, and stated that the TAC considered ways to improve getting rid of derelict vessels that
10 pose risks to waterways. He stated that State programs are under-funded for what they are
11 responsible for doing, and is concerned that vessels not classified as recreational vessels are
12 consuming most of the funding allocated for recreational vessels. He stated that there are a
13 handful of individuals that are responsible for most of the derelict vessels in the State, and
14 mentioned that the TAC proposes re-criminalizing certain acts as a deterrent.

15 The TAC proposes that the Department of Natural Resources (DNR) program be
16 bifurcated as between commercial and recreational boats, and also proposes that the DNR be
17 granted new statutory authority to take temporary custody of a vessel if the vessel poses a
18 reasonably imminent threat to human health or safety, which would include threats from
19 environmental contamination. Further, the TAC considered changing the priority ranking
20 system, shutting down the pipeline of derelict vessels, and providing for a marina slip
21 registration requirement. The TAC also recommends that the DNR and DOE investigate the
22 implications of an Amnesty Program to get boats off of the water before they become a problem.

23 There was discussion about revenue sources and existing protocols for dealing with
24 derelict vessels. Kevin Ranker (Ranker) stated that in San Juan County there have been incidents
25 of individuals deliberately placing derelict vessels in the water and allowing them to sink,
26 knowing that the DNR would assume the costs for lifting the sunken vessel.

27 There was a brief discussion about the USCG's involvement in dealing with derelict
28 vessels. Jones stated that the USCG responds to incidents involving threats to navigation and/or
29 human life, and that there is no existing method for decommissioning derelict vessels in a safe
30 manner. The TAC will consider the clean up after the Gig Harbor fire in their future
31 deliberations.

32 There was consensus by the Council that the Derelict Vessels TAC would recommend a
33 one time clean up of the backlog, will remove section D from the TAC's memo to the Council,
34 and evaluate alternative funding sources, which will be included in the Consultant's draft report.

35 36 **Tugs TAC Report**

37 Stuart Downer (Downer) delivered a report to the Council of the work accomplished by
38 the Tugs Technical Advisory Committee. He stated that the TAC referenced several studies
39 about the Neah Bay Tug, the International Tug of Opportunity System (ITOS), and tug escorts
40 for oil tankers. The TAC is not recommending any of the current escort regulations for oil
41 tankers traveling past Port Angeles be changed at this time. Downer stated that tugs have a
42 variety of mechanisms qualifying them as "state of the art," however the TAC recommends that
43 the Council endorse a fully funded, year-round, extreme-weather "straits and coastal waters
44 response/rescue tug" at or near Neah Bay, WA, and that a Tug Fund be administered by the
45 DOE. He stated that the TAC recommends that a standing committee be formed on vessel escort
46 requirements and new USCG requirements.

1 Fred Felleman (Felleman) stated that the current tug system has never been subject to
2 any sort of analysis, and mentioned that he disagrees with the recommendation that the current
3 system is “state of the art.”

4 Jeff Shaw (Shaw) stated that tugs have achieved excellence during their thirty years of
5 use, and have a variety of mechanisms that make them effective. He stated that tugs are
6 responsive and are charged with rescue, and mentioned that making them responsible for other
7 matters is wrong.

8 Moore stated that the tug is purpose driven and mentioned that there are data gaps and
9 some public policy issues concerning the TAC’s recommendations, but that the TAC is
10 conceptually moving down the right path.

11 Ranker stated that he was concerned with the Council not making any recommendations
12 about changing the current escort regulations. He stated that the Council needs to recommend
13 formally that there be studies of different regions to consider the placement of additional tugs for
14 sensitive areas.

15 There was consensus by the Council that staff would make some editorial changes to the
16 Tugs TAC report and submit them to the Council before the next meeting.

17 18 **San Juan Marine Resources Committee**

19 Ranker introduced Kit Rawson (Rawson) of the San Juan County Marine Resources
20 Committee (MRC), who stated that the San Juan MRC is the first locally- established citizen’s
21 advisory Committee instituted ten years ago by County Commissioners. The Committee
22 represents the full spectrum of the community, and works with scientists, stakeholders and others
23 to identify conservation targets, threats to ecosystems and strategies to abate those threats.
24 Rawson briefed the Council on the San Juan Island’s Marine Stewardship Area Plan, the MRC’s
25 recommendations for mitigating threats to waterways, and on MRC’s current projects.

26 27 **Islands’ Oil Spill Association**

28 Ranker introduced Julie Knight (Knight), Director of the Island Oil Spill Association
29 (IOSA), a local entity charged with oil spill response and preparedness. Knight stated that the
30 IOSA is the only community-based spill response organization in the Pacific Northwest that does
31 the full range of response. It was formed after the oil spill that occurred in the winter of 1985 in
32 Westcott Bay. Knight briefed the Council on the development of the IOSA, and stated that as of
33 March 28, 2006, 416 spills were paged to the Association, including three major out-of county
34 spill responses. She also briefed the Council on the IOSA’s coordination within the county to
35 provide oil spill response services, and stressed the importance of establishing educational
36 programs for local communities as a method of avoiding potentially catastrophic spills.

37 38 **Public Comment**

39 Kevin Parrington (Parrington), Petty Officer, USCG Seattle Sector, stated that he
40 participated in an advisory board on derelict vessels and offered the Council some clarifications
41 regarding the USCG’s protocol in pertaining to the removal of derelict vessels, and mentioned
42 that the TAC’s recommendations relating to double-hulled tankers and the amnesty program
43 require additional research.

44 Jason Tama (Tama), Lt. Commander, USCG Seattle Sector, offered some additional
45 clarifications to the Council on USCG protocols and stated that federal tanker escort
46 requirements apply only to singly hull vessels, which are tracked very closely by the USCG. He

1 also mentioned that there was an agreement among the US Navy, the USCG and Canada to share
2 management of waters between the United States and Canada. Tama stated that the Coast Guard
3 is willing to assist the Council in any way, and asked that requests for studies or other additional
4 Coast Guard information are as specific as possible.

5 6 **Lessons Learned Report**

7 Jacqui Brown Miller (Brown Miller) delivered the Staff report and responded to
8 questions from the Council. She stated at the prior Council meeting, the Council decided that a
9 subcommittee should be formed that would work with staff to make a recommendation to the full
10 Council after reviewing "lessons learned" reports, but was never accomplished. As stated in the
11 Memorandum to the Council, the Council is to conduct an "analysis of the 'lessons learned'
12 reports, and either reject or approve them as being prudent, and prioritize those that are
13 approved. Additionally, the Council must identify whether the approved lessons learned and
14 recommendations are being implemented. If so, where? If they are not, why not and what things
15 could the Council recommend that would enable and ensure unimplemented lessons learned are
16 finally implemented."

17 Ranker and Fletcher volunteered to be members of the subcommittee. Peter Becker
18 (Becker) stated that a representative from the Shellfish industry would also be interested in
19 participating.

20
21 Chairman Cooper adjourned the meeting at 5:14 p.m.

22 23 24 **May 19th, 2006**

25
26 **Members Present:** Chairman Mike Cooper, Phil Bannan, Peter Becker (Alternate), Maura
27 Brueger, Mike Doherty, Stuart Downer, Kathy Fletcher, Nick Jones, Gerald Joyce, Ian Miller
28 (Alternate), Michael Moore, Kevin Ranker, Lee Roussel, John Schumacher, Jeff Shaw, Greg
29 Whittaker, Phil Winberry

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31 **Members Absent:** Jim Davis, Harlan James, David Sones

32
33 **Staff Present:** Jacqui Brown Miller, Dorine Coleman

34
35 Chairman Cooper called the meeting to order at 8:30 a.m.

36 37 **Miscellaneous Items**

38 Chairman Cooper informed the Council that there will be a Council meeting in Olympia
39 on June 16th, 2006 that will function much like a Legislative work session.

40
41 There was a continuation of discussion of the Capacity TAC's report. Joyce briefed the
42 Council and stated that the TAC discussed what capacity is available. In the report, relevant
43 issues were excluded to develop a scope of work that is manageable for the Council's consultant.
44 Joyce provided a memo with the additions to the Capacity TAC's scope of work.

1 Jones stated that he would like to see specific language in the Council's report addressing
2 ways to implement the current DOE study. Ian Miller (Miller) brought up the issue of long-term
3 habitat restoration, and questioned how the TAC would address this subject.

4 Moore stated that the TAC will add language to strengthen the recommendation.
5

6 **Consultant's Report on state-of-the-art program creation**

7 Rob Frazier (Frazier), PE, Environmental International Ltd delivered the report to the
8 Council. He stated that the research is 85 percent complete, and that more than 14 interviews
9 have been conducted. Areas requiring further analysis are the United Kingdom Coast Guard,
10 France's prevention program, Shetland Islands Prevention Program and the California TAC.
11 Frazier briefed the Council on other existing Oil Spill Councils including the Prince William
12 Sound RCAC (PWSRCAC), the Cook Inlet RCAC (CIRCAC), the Maine OSAC, Shetlands
13 Island Council, the San Francisco Bay Harbor Safety Commission, and the Pacific States- British
14 Columbia Task Force. The report also included an analysis of prevention programs in Alaska,
15 Oregon, California, Maine, British Columbia and Norway, and recommendations from the
16 British Columbia Task Force, the Environmental Protection Agency (EPA), and the USCG.

17 Frazier briefed the Council on the current state of Washington State's program funding,
18 potential changes to current funding distributions and provided a risk analysis chart. The report
19 included 19 alternative funding programs as follows:

- 20 • Option 1- Eliminate the per barrel export exemption; increase the per barrel tax to
21 \$0.06; and eliminate the per barrel pipeline tax exemption.
- 22 • Option 2- Continue one-cent OSRA, above \$9.0 million to shift to OSPA.
- 23 • Option 3- Include cargo vessel moorage fees.
- 24 • Option 4- Include tank barge moorage fee or \$0.05 per barrel tax.
- 25 • Option 5- Include railroad transported oil and product transfer fee.
- 26 • Option 6- Include truck transported oil and product transfer fee.
- 27 • Option 7- Increase port moorage fees.
- 28 • Option 8- Include marina moorage/ fueling fees.
- 29 • Option 9- Include cruise lines moorage and/or passenger fee.
- 30 • Option 10- Include U.S. Navy.
- 31 • Option 11- Include U.S. Coast Guard.
- 32 • Option 12- Include tourism/recreation industry.
- 33 • Option 13- Include pilotage fee surcharge.
- 34 • Option 14- Include recreational boats.
- 35 • Option 15- Include Washington State Ferry System Fare Surcharge.
- 36 • Option 16- Include home heating oil delivery surcharge.
- 37 • Option 17- Include private car fuel or registration tax.
- 38 • Option 18- Include airplane fuel tax.
- 39 • Option 19- Include waterfront real estate sales tax.

40 Frazier also provided a brief summary of the final report outlines, and responded to
41 questions from the Council.

42 There was a brief discussion about funding. Chairman Cooper stated that the current tug
43 funding sunsets in 2008, and that the Council should consider recommending the removal of the
44 sunset clause off of the existing fund. Chairman Cooper also stated that the Council would have
45 to include the \$4 million one-time clean up of derelict vessels in the final report to the Governor.

1 He mentioned that the Council would look at the issue of funding more closely at future
2 meetings.

3 Frazier stated that the Council needs to consider its role and decide what functions it
4 would like to undertake over the long-term to determine what funding level it needs. Frazier
5 stated that the Council also needs to address funding shortfalls related to staffing on new
6 regulations in its recommendation.

7 The Council deliberated each funding option and eliminated option 19, as local
8 governments rely on real estate tax for local programs and option 17 as a new revenue source,
9 since car fuel and registration fees are used by local governments for local road improvement
10 projects. There was consensus by the Council that option 18 required further review. The
11 Council eliminated option 16 as it has very small revenue potential, and option 15 pertaining to
12 the Washington State ferry system. Ranker stated that the ferry system has a 36 million shortfall
13 in the first quarter of the year, and that an additional tax would be an undo burden on islanders
14 and other individuals who rely ferries as a daily mode of transportation. There was consensus by
15 the Council that option 13 and 14 required further review. Shaw stated that the pilot license fee
16 increased 24 percent this year and mentioned that option 13 is a double tax that would present a
17 significant cost for his industry. There was consensus by the Council that option 12 relating to
18 the tourism/recreation industry would be eliminated. Additionally, the Council acknowledged
19 that options ten and 11 relating to the USCG and Navy provide the State with additional
20 resources that could reduce and/or replace some State costs. There was consensus by the
21 Council that options one through nine require additional review.

22 Jones stated that he would be interested in an analysis of Chesapeake Bay, and mentioned
23 that it would be worthwhile for the Council to consider a Canadian approach to prevention, i.e.,
24 what activities it would like to see reduced. Fletcher stated that the Council should also evaluate
25 other existing mechanisms that can be utilized to improve the State's program. Greg Whittaker
26 (Whittaker) mentioned that the Council has not addressed the issue of public outreach/ education.

27 The Council briefly discussed funding needed to complete studies that the Council would
28 like to have done, additional staffing, and a requested budget increase from the Legislature.
29

30 **Department of Ecology's Oil Transfer and Contingency Plan Rules**

31 Dale Jensen (Jensen), DOE, provided the Council with a written update to the proposed
32 rule drafts, and responded to questions from the Council. Linda Pilkey Jarvis (Pilkey Jarvis)
33 stated that the updated draft includes provisions related to the outer coast and addresses the
34 appropriateness and stationing of response equipment. Jensen stated that the new language will
35 strengthen equipment caches, providing the State with the capability to respond to spills in any
36 direction.

37 Joyce asked if the new contingency plan standards considered the locations of high- risk
38 areas. Paul O'Brien (O'Brien) stated that the draft includes two new areas- Grey's Harbor and
39 the outer coast, and stated that the new performance standards will have to be demonstrated and
40 tested over a couple drill cycles, which typically are three years each. The goal is to determine
41 the appropriateness of all response equipment in Washington.

42 Chairman Cooper asked Jensen to clarify whether the DOE has the authority to waive
43 timelines related to compliance with the proposed oil transfer rules. O'Brien stated that the
44 contract by the Department of Transportation (DOT) provides a timeline for the tank truck
45 company to meet compliance standards of the oil transfer rule. The DOT will inform the DOE if
46 it can meet the standards the DOE proposed with the existing contract price they gave to the

1 USCG. Pilkey Jarvis stated that the timeline is just beyond the 90-day compliance standards
2 place by the DOE that everyone has to meet, and that the DOT is not being treated any
3 differently. O'Brien also mentioned that the original draft language has been narrowed down to
4 pre-booming and response standards, and that the DOT may provide alternative measures that
5 the DOE would consider.

6 Fletcher asked if there are situations when pre-booming would not be required. O'Brien
7 stated that pre-booming is based on transfer rates. High rate transfers are classified as "rate A,"
8 and low rate transfers as "rate B." If a deliverer determines that pre-booming is not safe and
9 effective at the time the transfer occurs, the reason for this determination must be documented
10 and reported to the DOE. The DOE is also requiring that all rate A deliveries must be analyzed
11 to develop threshold values of when it is safe to pre-boom.

12 Fletcher asked in what circumstances a deliverer should continue with a transfer, even
13 after the determination has been made that it is not safe and effective to boom. Jensen stated that
14 the two are not linked; boom can be used in other ways other than to pre-boom the vessel itself.
15 Jensen stated that the deliverer would have to show alternative capabilities in conditions during
16 which time it is not safe to boom.

17 The DOE and Council discussed the topic of manning on tank vessels. O'Brien stated
18 that there are federal provisions that prevent states from regulating manning on and the
19 construction standards of tank vessels.

20 There was consensus by the Council that this discussion would continue at the June
21 meeting in Olympia.
22

23 **Public Comment**

24 Jensen stated that it would be helpful if the Council could provide feedback relating to
25 Canadian/ US issues, and help working with the State of Oregon. Jensen mentioned that
26 Intertanko is a challenge for this group at the State level and that non-regulated spills are a big
27 problem.

28 Jason Tama, Lt. Commander, USCG stated that the Coast Guard is working at prevention
29 efforts on a lot of different levels. Tama invited the Council to visit district commands, and
30 stated that salvage and fire-fighting regulations may be helpful. He stated that the USGG is
31 getting ready to inspect towing vessels, and has been successful in getting additional funding for
32 BTS. Tama stated that a major oil spill drill will be conducted next week in Port Angeles.

33 Captain Any Coe (Coe), Puget Sound Pilots stated that he was impressed by the
34 tremendous amount of work accomplished by the Council, and commented on the usefulness of
35 the safety equipment on vessels. He stated that the pilot tariff is 25 percent.

36 John Schumacher (Schumacher) stated that the Tesoro Group will be conducting a drill in
37 Vancouver on June 8th and extended an invitation to the Council to attend.
38

39 Chairman Cooper adjourned the meeting at 3:17 p.m.
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43